

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SCSE-00 L-03 H-02 PA-02 USIA-15 PRS-01

DHA-02 JUSE-00 NSC-05 SCA-01 /044 W

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R 061700Z DEC 76

FM USMISSION USBERLIN

TO SECSTATE WASHDC 3549

UNCLAS USBERLIN 2616

FOR EUR/CE AND SCS

E.O.11652: N/A

TAGS: CASC(MURPHY, JOHNNIE LOU)

SUBJECT: W/W TRIAL OF JOHNNIE LOU MURPHY

REF: USBERLIN 2570

SUMMARY:

GERMANY'S LARGEST WEEKLY NEWS MAGAZINE, DER SPIEGEL, CARRIED AN EXTENSIVE ARTICLE ON THE MURPHY TRIAL IN ITS CURRENT EDITION. WHILE MENTIONING SOME OF THE LURID DETAILS OF THE CASE, THE ARTICLE CONCENTRATED ON THE DEFENSE ATTORNEY'S CONTENTION THAT THE BERLIN COURT WAS NEITHER COMPETENT TO HEAR THE CASE NOR CAPABLE OF RENDERING AN IMPARTIAL DECISION. END SUMMARY.

1) WHILE STATING THAT THIS IS THE FIRST TIME THAT A MEMBER OF THE FORCES HAS BEEN INDICTED BY A BERLIN COURT, THE ARTICLE NOTES THAT THE COURT CAN NOT BE PLEASED WITH THIS TURN OF EVENTS SINCE THE AMMUNITION FOR PROSECUTING ATTORNEY'S FOURTEEN PAGE INDICTMENT IS BASED ALMOST EXCLUSIVELY ON A REPORT OF ALLEGED EVENTS PROVIDED BY THE AMERICANS, AND " DELIVERED COMPLETE WITH A VERDICT", I.E., THE LIFE SENTENCE GIVEN MRS. MURPHY'S HUSBAND FLOYD.

2) THE ARTICLE NOTES THAT 31 YEARS AFTER THE WAR THE U.S. AUTHORITIES CAN, AT LEAST THEORETICALLY, SET ASIDE THE DECISION OF A BERLIN COURT IF IT IMPINGES UPON US INTERESTS. ALLIED LAW NUMBER 7 IS CITED AS PROHIBITING BERLIN COURTS FROM OBJECTING TO LAWS, REGULATIONS OR ORDERS PROMULGATED

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BY THE ALLIED AUTHORITIES. ACCORDING TO THE ARTICLE, THE

DEFENSE LAWYER CONTENDS THAT NO BERLIN JUDGE IS ABLE TO IGNORE THIS QUESTION OF ULTIMATE AUTHORITY. THEREFORE THE MOST DESIRABLE SOLUTION WOULD BE TO TRANSFER THE CASE TO A U.S. COURT OR, BARRING THIS, AN INDEFINITE POSTPONEMENT PENDING CLARIFICATION OF JURISDICTIONAL MATTERS.

3) THE ARTICLE CLOSED BY NOTING THAT THE DEFENSE COUNSEL PLANS TO ASK THE GERMAN FEDERAL CONSTITUTIONAL COURT CONSIDER, IN THE EVENT OF APPEAL, HIS CHARGE THAT A FAIR TRIAL IS NOT POSSIBLE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 06 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USBERL02616
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760450-0921
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761268/aaaacggy.tel
Line Count: 72
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 USBERLIN 2570
Review Action: RELEASED, APPROVED
Review Authority: wolfsd
Review Comment: n/a
Review Content Flags:
Review Date: 28 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <28 MAY 2004 by hattaycs>; APPROVED <09 AUG 2004 by wolfsd>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: W/W TRIAL OF JOHNNIE LOU MURPHY
TAGS: CASC, (MURPHY, JOHNNIE LOU)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006